

Title 5 - DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30 - Division of Financial and Administrative Services
Chapter 4 - General Administration

PROPOSED AMENDMENT

5 CSR 30-4.030 Audit Policy and Requirements. The State Board is proposing to add subsection (2)(A) and amend sections (3), (4), (5), and (6).

PURPOSE: This rule is being amended to include updates for new federal guidance.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(2) Audits of schools are primarily intended to express an auditor's opinion on the fairness of presentation of the financial statements. Audits also provide an independent review of financial operations, systems of internal control, and compliance with relevant state and federal laws and regulations.

(A) The financial statements must be prepared in accordance with the Generally Accepted Accounting Principles (GAAP), or a basis of accounting required by state law, as described in the *Federal Accounting Standards Advisory Board Handbook of Federal Accounting Standards and Other Pronouncements, as Amended*, revised June 30, 2014, which is incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education (department) and is available at the Accounting and Procurement Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

(3) Responsibilities in the audit process are shared by the board, the independent auditor contracted by the board, and the Department of Elementary and Secondary Education (*[DESE]* department).

(4) The board's responsibilities are as follows:

(A) Each board is responsible for defining an appropriate scope of the audit.

1. At a minimum, the audit must include the school's:

- A. General, Special Revenue, Debt Service, and Capital Projects funds;
- B. Fiduciary funds;
- C. Proprietary funds; and

D. Component units (unless a component unit issues its own audited financial statements).

2. A Single Audit of federal funds expended by the school may be required. State law provides for the acceptance of federal acts and funds and for their necessary administration and supervision. Audit requirements are a part of federal acts and the implementing regulations adopted by the administering federal agencies. The requirements of the Single Audit Act, as amended by *The Single Audit Act Amendments of 1996*, 62 Fed. Reg. 35278-35319 (1997), Office of Management and Budget (OMB) [Circular A-133] **Uniform Grant Guidance 2 CFR Part 200**, which is incorporated by reference and made a part of this rule as published by the Office of the Federal Register, Office of Administration and is available by contacting the Office of Administration, Publications Office, Room 2200, New Executive Office Building, Washington, DC 20503, and *Government Auditing Standards*, [July 2007] **December 2011** Revision, issued by the Comptroller General of the United States, which is incorporated by reference and made a part of this rule as published by the U.S. Government Accountability Office, 441 G St. NW, Washington, DC 20548, are included in this audit policy. This rule does not incorporate any subsequent amendments or additions. Specific application of these requirements shall be as follows:

A. All schools that expend a total amount of federal awards equal to or in excess of the amount specified in OMB [Circular A-133] **Uniform Grant Guidance 2 CFR Part 200** as the Single Audit threshold or such other amount specified by the federal director of the OMB in any fiscal year shall either have a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of *The Single Audit Act Amendments of 1996*, OMB [Circular A-133] **Uniform Grant Guidance 2 CFR Part 200** and the *Government Auditing Standards*; or

B. All schools that expend a total amount of federal awards of less than the amount specified in OMB [Circular A-133] **Uniform Grant Guidance 2 CFR Part 200** as the Single Audit threshold or such other amount specified by the director of the OMB in any fiscal year shall be exempt for such fiscal year from compliance with *The Single Audit Act Amendments of 1996*. However, **the school must make the records available for review or audit by appropriate officials of the Federal agency, Department, and the Government Accountability Office (GAO)**. Also, these schools shall be required to have an audit performed in accordance with *Government Auditing Standards*.

3. All charter school audits shall be single entity reports completed on a July 1 to June 30 basis.

4. Schools that cease operations are not exempt from the audit requirements. A final audit of the school's activities through the date it ceases operations must be performed and submitted to [DESE] **the department** as otherwise described in this rule;

(B) Each board is responsible for procuring audit services. Audit services should be competitively bid in accordance with district procurement policy.

1. Each board is responsible for *[selecting]* **procuring** an independent auditor who holds a current permit to practice public accounting in the state of Missouri and meets the requirements for continuing professional education and peer review, as defined by the regulations of the Missouri State Board of Accountancy and *Government Auditing Standards*. Subcontractors must also meet these requirements.
2. **When the board requests proposals for audit services, the objectives and scope of the audit must be made clear and the school must request a copy of the audit organization's peer review report which the auditor is required to provide under *Generally Accepted Government Auditing Standards (GAGAS)*, revised December 2011, which is incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education (department) and is available at the Accounting and Procurement Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480.**

[2.] 3. Auditors performing Single Audits pursuant to OMB *[Circular A-133]* **Uniform Grant Guidance 2 CFR Part 200** must not be suspended or debarred from doing business with the federal government;

(C) The audit report shall be submitted to *[DESE]* **the department** by school officials no later than December 31 of each year. If the audit is not received by the deadline, all funds disbursed by *[DESE]* **the department** to the school may be withheld until the audit is received;

(D) The board is responsible for transmitting one (1) copy of the report; the related management letter, if one is prepared by the independent auditor; and a copy of the **final approved signed** board minutes or board resolution, indicating approval of the audit report to *[DESE]* **the department** and other copies of the audit report as required by federal laws and regulations to the appropriate agency(ies). The management letter (if applicable) and a copy of the **final approved signed** board minutes or board resolution indicating approval of the audit report must be received by *[DESE]* **the department** before the audit file will be considered complete for the fiscal year:

1. The audit report, related management letter, and copy of the **final approved signed** board minutes or board resolution *[may]* **must** be submitted electronically to *[DESE]* **the department** by the board *[or its designee to an e-mail address established for this purpose]* **through the Web Applications program**. All signatures that would normally be included on the hard copy document must be present on the electronic document. Documents with scanned signatures will be accepted. Copies of unsigned audit reports, management letters, or board minutes or resolutions will not be accepted; and

2. Revisions to an audit report may also be submitted electronically to *[DESE]* **the department** but must be accompanied by a signed statement from the independent auditor on the firm's letterhead explaining the reason for the revision;

(E) Schools that have a Single Audit performed and have federal findings or questioned costs shall submit the school's Corrective Action Plan prepared in accordance with OMB *[Circular A-133]* **Uniform Grant Guidance 2 CFR Part 200** with their audit report and management letter as stated above;

1. The corrective action plan must be in a separate document from the audit report.

(F) The board must notify *[DESE]* **the department's [School] Financial and Administrative Services** section if fraud or embezzlement is discovered during the course of the audit;

(G) The board *[is responsible for the accuracy of the audited financial statements]* **must prepare financial statements that reflect its financial position**, notes to the financial statements, and assertions related to compliance with state and federal laws and regulations^[:] and **also, the board is responsible for the accuracy of the audited financial statements; and**

(H) Each board is responsible for ensuring implementation of audit recommendations as appropriate and resolving any questions or discrepancies disclosed by the audit or noted by *[DESE]* **the department**.

(5) The independent auditor is responsible for conducting the audit in accordance with generally accepted auditing standards, government auditing standards, federal audit requirements, and *[DESE]* **the department** audit guidelines as contained or referenced in this rule; submitting the audit report to the client board; and assisting in resolving questions or problems which may be disclosed by the audit. Depending on the contract or agreement the school has with its independent auditor, this assistance may require additional compensation to be paid to the auditor.

(A) School audits must contain at a minimum the following:

1. A statement of the scope of examination;
2. A statement as to whether the audit was conducted in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States;
3. The independent auditor's opinion as to whether the financial statements included in the audit report present fairly the results of the operations during the period audited;

4. A statement as to whether the financial statements accompanying the audit report were prepared in accordance with generally accepted accounting principles or another comprehensive basis of accounting;
5. The reason or reasons an opinion is not rendered in the event the independent auditor is unable to express an opinion with respect thereto;
6. Except for charter schools, the independent auditor's opinion as to whether the school's budgetary and disbursement procedures conform to the requirements of Chapter 67, RSMo;
7. The independent auditor's opinion as to whether attendance and transportation records are so maintained by the school as to disclose accurately average daily attendance and average daily transportation of pupils during the period of the audit;
8. The schedule of selected statistics, as specified annually by *[DESE]* **the department**; and
9. Financial statements presented in such form as to disclose the operations of each fund of the school and a statement of the operations of all funds.

(6) *[DESE]* **The department** has the general responsibility to receive and review audits; to verify that minimum audit requirements have been met; and with the school's independent auditor, to resolve any questions or discrepancies. Specific responsibilities within *[DESE]* **the department** are assigned as follows:

(A) *[DESE]* **The department** has an advisory and supervisory relationship with the board through the school's administrative staff. Questions regarding audit reports and any audit problems, discrepancies, or findings will generally be resolved by the *[DESE]* **the department** directly with the administrative staff at the school. However, in some cases, *[DESE]* **department** staff may communicate directly with the school's auditor. *[DESE]* **Department** staff will communicate with the federal cognizant agency (typically, the U. S. Department of Education) regarding compliance with various federal requirements. The cognizant agency has the authority to make periodic contacts with school officials and their auditors regarding specific questions, audit deficiencies or review of the audit process; and

(B) *[DESE]* **The department's [School Administrative Services] Accounting and Procurement** section is the primary point of contact with the school and their independent auditor regarding audit requirements and audit reports. This section is responsible for reviewing the audit reports for general acceptability in accordance with state and federal guidelines.

1. *[DESE]* **Department** staff will make a preliminary review to determine if the audit generally conforms to state and federal requirements referenced in this rule.

2. Schools which receive an audit with a disclaimer of opinion shall institute corrective measures to ensure that the subsequent audit does not contain a disclaimer of opinion. If a disclaimer of opinion is rendered on the subsequent audit, the audit shall be deemed unacceptable and all funds disbursed by *[DESE]* **the department** to the school may be withheld until such time as the school demonstrates to *[DESE]* **the department** that the situation resulting in the disclaimer of opinion has been corrected by the school.
3. Audit reports containing an adverse opinion will be evaluated by *[DESE]* **department** staff. Depending on the reasons for the adverse opinion, *[DESE]* **the department** may require the school to provide evidence that corrective action has been or is being taken to eliminate the adverse opinion from future reports. If corrective action is not taken as deemed necessary by *[DESE]* **the department** and an adverse opinion is rendered on the subsequent audit, the audit shall be deemed unacceptable and all funds disbursed by *[DESE]* **the department** to the school may be withheld until such time as the district demonstrates to *[DESE]* **the department** that the situation resulting in the adverse opinion has been corrected by the school.
4. Audits will be reviewed on a rotating basis via a formal desk review for adherence to the appropriate audit requirements (*The Single Audit Act Amendments of 1996*; OMB *[Circular A-133]* **Uniform Grant Guidance 2 CFR Part 200**; *Government Auditing Standards*, as well as the state requirements) included or referenced in this rule.
 - A. Any deficiencies with the audit, during this phase, will be communicated to school officials and/or the independent auditor depending on the severity and type of deficiency noted. Resolution of desk review items should occur within the time frame provided by *[DESE]* **the department** in the written communication with the school or the independent auditor. Failure to address noted deficiencies may result in the withholding of funds *[distributed]* **disbursed** by *[DESE]* **the department** to the school. Severe deficiencies and/or inaction by the school's independent auditor may result in the reporting of the independent auditor to the Missouri State Board of Accountancy.
 - B. Review of the independent auditor's working papers may be conducted by *[DESE]* **the department** as deemed appropriate to ensure appropriate work has been performed to support statements, opinions, findings, etc. of the independent auditor. Auditors may be requested to provide their most recent peer review report to *[DESE]* **the department**.
5. For audits conducted in accordance with OMB *[Circular A-133]* **Uniform Grant Guidance 2 CFR Part 200**, federal findings and questioned costs and the related Corrective Action Plan will be circulated to the appropriate *[DESE]* **department** program sections for follow-up with the school.
 - A. The program sections, both federal and state, are responsible for addressing relevant portions of the audit including follow-up with school officials and their independent auditors to resolve any questions, discrepancies, or audit findings.

B. The appropriate program section shall issue a written management decision to the school indicating approval/disapproval of the school's Corrective Action Plan. This must take place within six (6) months from the receipt of the audit.

C. When the program section review suggests questions or disclose discrepancies, the individual program section will correspond directly with the school. This correspondence initiates a procedure for resolving program audit questions and discrepancies which is outlined below—

(I) Personnel of the various program sections will advise the school officials of the findings and the nature of any discrepancy found in the audit report;

(II) Within the time frame provided by *[DESE]* **the department**, school officials will be expected to respond with clarifying information and, as appropriate, corrected data or a corrected page of the audit report issued by the independent auditor who conducted the original audit. *[DESE]* **Department** staff will assist in every reasonable way to help a school and/or its independent auditor find a solution to audit problems; and

(III) If a discrepancy cannot be resolved, *[DESE]* **the department** may recover or withhold applicable state or federal funds from the affected program.

AUTHORITY: sections 160.405 and 161.092, RSMo Supp. [2008] 2014 and sections 165.121, 167.201, and 178.430, RSMo 2000. Original rule filed April 28, 1982, effective Sept. 12, 1982. Amended: Filed Oct. 12, 1982, effective Jan. 14, 1983. Amended: Filed March 7, 1985, effective Sept. 3, 1985. Amended: Filed Jan. 30, 1989, effective May 25, 1989. Emergency amendment filed June 21, 1995, effective July 1, 1995, expired Oct. 28, 1995. Amended: Filed May 11, 1995, effective Dec. 30, 1995. Emergency amendment filed May 1, 1997, effective May 11, 1997, expired Nov. 8, 1997. Amended: Filed April 29, 1997, effective Nov. 30, 1997. Rescinded and readopted: Filed Sept. 24, 2002, effective March 30, 2003. Rescinded and readopted: Filed April 8, 2009, effective Oct. 30, 2009.

PUBLIC COST: This proposed amendment will not cost public school districts and charter schools more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Toni Wade, Accounting and Procurement Section, Division of Financial and Administrative Services, PO Box 480, Jefferson City, MO 65102-0480, or by email to audits@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**Small Business Regulatory Fairness Board
Small Business Impact Statement**

Date: June 10, 2015

Rule Number: 5 CSR 30-4.030 Audit Policy and Requirements

Name of Agency Preparing Statement: Dept. of Elementary and Secondary Education

Name of Person Preparing Statement: Toni Wade

Phone Number: 573-751-9437 **Email:** toni.wade@dese.mo.gov

Name of Person Approving Statement: Andrea Beck

Please describe the methods your agency considered or used to reduce the impact on small businesses

By clarifying the current rule, it will reduce the audit work of the school auditors since the school district will still be considered low risk.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The school auditors prompted the review of the current audit rule because of their concern that absent a rule change, the cost of audits would increase significantly to school districts.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

There are no costs to the agency associated with this rulemaking. There will be a reduction in the cost to the school districts because they will not be considered a high risk entity and therefore will require less audit work.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

School auditors will be required to provide their peer review reports to their clients upon request. The auditors should be receiving a peer review every three (3) years. In addition, the audits will need to be bid by the school districts so they will need to compete for these services.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

There may be minimal costs in relation to providing the peer review reports to the auditor's clients. It is impossible to know the fiscal impact of bidding for the audit services.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

School districts and independent auditors will be affected by 5 CSR 30.4.030.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes ___ No X

If yes, please explain the reason for imposing a more stringent standard.